

CRS Report for Congress

Received through the CRS Web

Postal Reform Bills: A Side-by-Side Comparison of H.R. 22 and S. 662

Updated August 4, 2005

Kevin R. Kosar
Analyst in American National Government
Government and Finance Division

Report Documentation Page				Form Approved OMB No. 0704-0188	
Public reporting burden for the collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to a penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.					
1. REPORT DATE 04 AUG 2005		2. REPORT TYPE N/A		3. DATES COVERED -	
4. TITLE AND SUBTITLE Postal Reform Bills: A Side-by-Side Comparison of H.R. 22 and S. 662				5a. CONTRACT NUMBER	
				5b. GRANT NUMBER	
				5c. PROGRAM ELEMENT NUMBER	
6. AUTHOR(S)				5d. PROJECT NUMBER	
				5e. TASK NUMBER	
				5f. WORK UNIT NUMBER	
7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES) Congressional Research Service The Library of Congress 101 Independence Ave SE Washington, DC 20540-7500				8. PERFORMING ORGANIZATION REPORT NUMBER	
9. SPONSORING/MONITORING AGENCY NAME(S) AND ADDRESS(ES)				10. SPONSOR/MONITOR'S ACRONYM(S)	
				11. SPONSOR/MONITOR'S REPORT NUMBER(S)	
12. DISTRIBUTION/AVAILABILITY STATEMENT Approved for public release, distribution unlimited					
13. SUPPLEMENTARY NOTES					
14. ABSTRACT					
15. SUBJECT TERMS					
16. SECURITY CLASSIFICATION OF:			17. LIMITATION OF ABSTRACT SAR	18. NUMBER OF PAGES 55	19a. NAME OF RESPONSIBLE PERSON
a. REPORT unclassified	b. ABSTRACT unclassified	c. THIS PAGE unclassified			

Postal Reform Bills: A Side-by-Side Comparison of H.R. 22 and S. 662

Summary

The 109th Congress is considering two bipartisan bills that would reform the U.S. Postal Service (USPS) — H.R. 22 and S. 662. H.R. 22 was introduced and referred to the House Government Reform Committee on the first day of the 109th Congress (January 4, 2005). On April 14, the Government Reform Committee marked up H.R. 22 and approved it by a vote of 39-0. Thereafter, H.R. 22 was referred to the House Committee on the Judiciary on April 28, discharged therefrom May 27, and placed on Union Calendar No. 55 that same day. The House passed H.R. 22 on July 26, 2005, by a vote of 420 to 10 and it was placed on the Senate Legislative Calendar (Calendar No. 176). S. 662 was introduced into the Senate on March 17, 2005, and referred to the Committee on Homeland Security and Governmental Affairs. On June 22, S. 662 was amended and reported by a vote of 15-1.

H.R. 22 and S. 662 are similar to two bills from the 108th Congress — H.R. 4341 and S. 2468 — which cleared committee by unanimous votes but were not brought to the floor. Like these previous bills, H.R. 22 and S. 662 would attempt to make the Postal Service focus on its core mission (universal delivery of the mail) by defining the term “postal services.” The bills would define the categories of postal services and products as “competitive” or “market-dominant” and prohibit the Postal Service from subsidizing competitive products with revenues from market-dominant products.

H.R. 22 and S. 662 are more alike than H.R. 4341 and S. 2468. For example, previously the House and Senate differed over USPS’s right to invest excess monies from the Competitive Products Fund in private sector securities and obligations. H.R. 22 and S. 662 both propose limiting USPS purchases to U.S. Treasury investments. The bills have also reconciled formerly divergent approaches to limits on “worksharing” discounts for barcoding and mail sorting.

That said, H.R. 22 and S. 662 possess significant differences. These include:

- the definition of “market-dominant” postal products and services;
- the components and goals of the new ratemaking system for market-dominant products and services;
- disability payments and retirement;
- retiree health benefits funding;
- the establishment of “modern service standards”; and
- the governance of the Postal Service.

This report will be updated to reflect significant legislative developments.

Contents

Overview	1
Side-by-Side Comparison of H.R. 22 and S. 662	4
Title I — Definitions, Postal Services	5
Title II — Modern Rate Regulation	6
Title III — Provisions Relating to Fair Competition	22
Title IV — General Provisions	29
Title V — Enhanced Regulatory Commission	35
Title VI — Inspectors General	37
Title VII — Evaluations	37
Title VIII — Miscellaneous, Technical and Conforming Amendments ...	44
Title IX — Postal Pension Funding Reform Amendments	47

Postal Reform Bills: A Side-by-Side Comparison of H.R. 22 and S. 662

Overview

The 109th Congress is considering two bipartisan bills that would reform the U.S. Postal Service (USPS) — H.R. 22 and S. 662. Both bills were sponsored by the chairpersons and ranking minority members of the committees of jurisdiction. H.R. 22 was introduced and referred to the House Government Reform Committee on the first day of the 109th Congress (January 4, 2005). On April 14, the Government Reform Committee marked up H.R. 22 and approved it by a vote of 39-0. Thereafter, H.R. 22 was referred to the House Committee on the Judiciary on April 28, discharged therefrom May 27, and placed on Union Calendar No. 55 that same day. S. 662 was introduced into the Senate on March 17, 2005, and referred to the Committee on Homeland Security and Governmental Affairs. On June 22, S. 662 was amended and reported by a vote of 15-1. (This report draws upon the manager's amendment version of S. 662; the bill as reported was unavailable at the time of publication of this report.)

H.R. 22 and S. 662 share many features — more so than the postal reform bills of the 108th Congress.¹ To take three prominent examples, both bills would require increased financial transparency at USPS by requiring USPS to prepare quarterly and annual reports that contain the same information that publicly traded corporations file with the Securities and Exchange Commission. H.R. 22 and S. 662 also now share identical language regulating USPS discretion to enter into work-sharing agreements with the private sector, a matter of concern to large mailers and postal employee unions. Finally, the bills share identical language on the operation of the proposed Postal Service Competitive Products Fund. Previously, the House and Senate differed over USPS's right to invest excess funds in private sector securities and obligations. Now, H.R. 22 and S. 662 agree that any excess funds may be invested only in U.S. Treasury investments, a concession to the Treasury Department.

Both bills propose changes that would have significant effects on the financial condition of the Postal Service. H.R. 22 and S. 662 would transfer back to the Treasury the responsibility to fund pension benefits arising from former military service of postal workers. This would reverse a provision of the Postal Civil Service Retirement System Reform Act of 2003 (P.L. 108-18) that could cost USPS (and its

¹ For a similar comparison of postal reform legislation in the 108th Congress, see CRS Report RL32402, *Postal Reform Bills: A Side-by-Side Comparison of H.R. 4341 and S. 2468*, by Kevin R. Kosar.

customers) \$27 billion. H.R. 22 and S. 662 would abolish the escrow account provided for in P.L. 108-18.²

H.R. 22 and S. 662 also propose incremental reforms that would attempt to make the Postal Service operate more openly and predictably. Both bills would require USPS to focus on its core mission (the delivery of mail) by defining the term “postal services.” H.R. 22 and S. 662 also would define various postal products and services as “competitive” or “market-dominant” and prohibit USPS from subsidizing competitive products with revenues from market-dominant products. Additionally, the bills would transform the Postal Rate Commission into a broader regulatory body with subpoena powers (the new Postal Regulatory Commission, hereafter PRC). H.R. 22 and S. 662 would also replace the present adversarial postage ratemaking process, which typically takes 10 to 14 months, with a rate-cap system that would permit USPS to raise postage rates on market-dominant products at the rate of inflation. The Board of Governors (BOG) of USPS would establish rates and classes for competitive products.

While very similar, H.R. 22 and S. 662 do possess substantive differences, which are described below.

The Definition of Market-Dominant Postal Products and Services.

H.R. 22 and S. 662 differ over the definition of market-dominant products. Both bills would include first class, library, and media mail, as well as postcards, in their definitions. However, H.R. 22, Section 201, would include single piece first-class letters and cards while S. 662, Section 201, would include first-class letters and cards. S. 662 would include sealed parcels and single piece parcel post; H.R. 22 would not. The inclusion or non-inclusion of a product in this classification is of concern to mailers and competitors of the Postal Service (such as UPS and FedEx) because of the possible effects on product prices. Critics have long complained that USPS keeps the prices for some products (such as parcels) artificially low, thereby garnering a larger market share. USPS is accused of doing this by failing to attribute the full cost of providing such a product; these products are said to be “cross-subsidized” by the large earnings USPS earns on first-class mail. Under both H.R. 22 and S. 662, products that are not defined as market-dominant would fall into the “competitive products” category and would have to fully attribute the costs of providing them. Some believe that including, for example, parcels in the competitive products category would lead to increased prices for parcel delivery service (which competitors would likely favor and large mailers would likely disfavor).

The Components and Goals of the New Ratemaking System for Market-Dominant Products and Services. While H.R. 22, Section 201, and S. 662, Section 201, are similar on the components and goals of the new ratemaking system, significant differences remain. Both would require USPS to cap the prices of market-dominant products at the Consumer Price Index for All Urban Consumers, but S. 662 would require the new ratemaking system to permit USPS to exceed the rate cap under “extraordinary” circumstances and allow USPS to raise rates for a

² On pension and escrow issues, see CRS Report RL32346, *Pension Issues Cloud Postal Reform Debate*, by Nye Stevens.

class or service above the CPI by the amount that rate increases in the previous year were less than the CPI. (This provision was added June 22, 2005.) H.R. 22 would allow USPS to exceed the rate cap if PRC held a public hearing and determined that breaking the rate cap “is reasonable and equitable and necessary.” (The Postal Service would like to have this rate-cap escape clause because it believes that staying below the CPI will be “extremely challenging” due to falling revenues, the growing number of delivery points, and USPS’s limited control over its costs.)³ H.R. 22 would prohibit USPS from raising the postage rate of any subclass of mail more than the CPI with permission from PRC. S. 662 would apply this restriction at the class level — a provision the Postal Service prefers because it gives USPS greater flexibility to adjust rates. Finally, H.R. 22 would require the new ratemaking system to establish a “fair and equitable” schedule for rates and the classification system; S. 662 would not, and instead would require that the new system “allocate the total institutional costs of the Postal Service equitably between market-dominant and competitive products.”

Disability Payments and Retirement. S. 662, Section 902, would encourage injured workers of retirement age to retire rather than go on disability leave. Under current law, an employee suffering total disability from a workplace injury is entitled to compensation of 66⅔% of monthly pay. S. 662 would reduce this to 50%. H.R. 22 does not carry this provision, and is favored by USPS unions.

Retiree Health Benefits Funding. Both H.R. 22, Secs. 901-904, and S. 662, Secs. 802-804, would return the obligation for postal worker benefits attributable to military service to the Treasury and establish a Postal Service Retiree Health Benefits Fund for the purpose of pre-funding retiree health benefits. The two bills, however, have different approaches to the unfunded retiree health benefits liability. H.R. 22 would require USPS to make annual payments into the fund consisting of a contribution to cover predicted retirement health care costs of current postal workers and interest on the contribution owed for both current and future annuitants. The House bill also would require that two-thirds of the annual escrow “savings” be devoted to the fund. S. 662 would also require an annual contribution to the fund, but it would consist of a contribution to cover predicted retirement health care costs of current postal workers and an installment payment on an amortization schedule to reduce the unfunded liability. The Postal Service has expressed a preference for S. 662 because it does not include the two-thirds provision (which limits USPS discretion). USPS also has said that having a predictable annual amortization payment would make operating under a rate cap easier.

The Establishment of Modern Service Standards. S. 662, Title III, would require USPS and PRC to establish service standards designed to achieve four objectives (provided they are consistent with USPS’s universal service obligation):

³ Testimony of John E. Potter, Postmaster General/CEO, United States Postal Service, before U.S. Senate, Committee on Homeland Security and Governmental Affairs, *U.S. Postal Service: What is Needed to Ensure its Future Viability?*, hearings, 109th Cong., 1st sess., Apr. 14, 2005, available at [http://hsgac.senate.gov/_files/PMGTESTIMONY_FINAL412.pdf], pp. 15-17.

- Enhance the value of the Postal Service to both senders and recipients;
- Preserve regular and effective access to postal services in all communities, including those in rural areas or where post offices are not self-sustaining;
- Reasonably assure USPS customers delivery reliability, speed, and frequency consistent with reasonable rates and best business practices; and
- Provide a system of objective external performance measurements for each market-dominant product as a basis for measurement of USPS performance.

The Postal Service would be required to prepare a report each year that details its progress in achieving objectives. The USPS Inspector General would be required to examine this report and issue an assessment of its own on USPS compliance with the law. Both reports would be submitted to Congress. H.R. 22 excludes this title altogether. Instead, Section 204 of H.R. 22 would require USPS to develop its own service standards and PRC to monitor its achievement of them.

Governance of the U.S. Postal Service. Both bills would amend present law so that members of the Board of Governors would be chosen “solely on the basis of their demonstrated ability in managing organizations or corporations (in either the public or private sector) of substantial size.” H.R. 22, Section 401, would define the term “substantial size” to mean 50,000; S. 662, Section 501, would not define this term. S. 662 would reduce the term of a governor from nine to five years; H.R. 22 would not. H.R. 22 would require that an early vacancy on the Board of Governors be filled by a person nominated with the concurrence of labor unions; S. 662 would not.

Side-by-Side Comparison of H.R. 22 and S. 662

This side-by-side comparison uses H.R. 22 from the 109th Congress as reported by the House Government Reform Committee on April 14, 2005, as its base. The left-hand column provides digests of the sections of H.R. 22; the right-hand column holds digests of the sections of S. 662 — as amended June 22, 2005 — from the 109th Congress. As the reader will see, the titles and sections of the two bills are not always the same. For example, S. 662 carries a title on “Modern Service Standards;” H.R. 22 does not. H.R. 22 carries a section (601) that would create an Inspector General of the Postal Regulatory Commission; S. 662 does not. In some cases, the bills carry similar provisions but place them in different titles. For example, Section 407 of H.R. 22 proposes reforms to the structure of the collective bargaining process; so does S. 662, but at Section 505. In such cases, the columns cross-reference one another, directing the reader to the comparable provisions of the bills.

Side-by-Side Comparison of House and Senate Postal Reform Bills (109th Congress)

H.R. 22		S. 662	
Title I — Definitions, Postal Services		Title I — Definitions, Postal Services	
Sec. 101. Definitions.	<p>Would amend 39 U.S.C. 102 to define the following terms: product, rates, market-dominant product, competitive product, consumer price index, and year.</p> <p>Would amend 39 U.S.C. 10 to define “postal service” as “the carriage of letters, printed matter, or mailable packages, including acceptance, processing, delivery, or other services supportive or ancillary thereto.”</p> <p>Would define “consumer price index” to mean the “monthly Consumer Price Index for All Urban Consumers.”</p>	Sec. 101. Definitions.	<p>Identical.</p> <p>Would define “postal service” as “the physical delivery of letters, printed matter, or packages weighing up to 70 pounds, including physical acceptance, collection, sorting, transportation, or other functions ancillary thereto.”</p> <p>Equivalent provision at Sec. 201 (see below).</p>
Sec. 102. Postal Services.	<p>Would provide that “[n]othing in this title shall be considered to permit or require that the Postal Service provide any special nonpostal or similar services, except that nothing in this subsection shall prevent the Postal Service from providing any special nonpostal or similar services provided by the Postal Service as of January 4, 2005.”</p> <p>Not included.</p>	Sec. 102. Postal Services.	<p>Would provide that “[e]xcept as provided in section 411, nothing in this title shall be considered to permit or require that the Postal Service provide any special nonpostal or similar services.”</p> <p>Would also include a conforming amendment to 39 U.S.C. 2003(b)(1) by striking “and nonpostal,” a provision that USPS has used to justify entering businesses outside its core mission.</p>

H.R. 22		S. 662	
Sec. 103. Financial Transparency.	Would amend 39 U.S.C. 101 and 39 U.S.C. 5001 to require the USPS to “be subject to a high degree of financial transparency, including its finances and operations, to ensure fair treatment of customers of the Postal Service’s market-dominant products and companies competing with the Postal Service’s competitive products.”		Equivalent provision at Sec. 605.
Title II — Modern Rate Regulation		Title II — Modern Rate Regulation	
Sec. 201. Provisions Relating to Market-Dominant Products.	<p>H.R. 22 would define market-dominant products to include:</p> <ul style="list-style-type: none"> — single piece first-class letters (both domestic and international); — all first-class mail; — single piece first-class cards; — media mail; — library mail; — special services; — periodicals; — standard mail; — bound printed matter. — Not included. <p>Would amend 39 U.S.C. 3621 and 3622 to require the new Postal Regulatory Commission (see Sec. 501 below) to establish a “modern system for regulating rates and classes for market-dominant products within 24 months.”</p>	Sec. 201. Provisions Relating to Market-Dominant Products.	<p>S. 662 would define market-dominant products as:</p> <ul style="list-style-type: none"> — first-class letters and sealed parcels; — single piece international mail; — Not included. — first-class cards; — Identical. — Identical. — Identical. — Identical. — Identical. — Identical. — single-piece parcel post; <p>Identical except that PRC would be required to establish the new rate regulation system within 12 months of enactment.</p>

H.R. 22	S. 662
<p>The proposed “modern rate regulation system” would be required to:</p> <ul style="list-style-type: none"> — Reduce the administrative burden of the ratemaking process; — Create predictability and stability in rates; — Maximize incentives to reduce costs and increase efficiency, — Allow USPS flexibility in pricing, assure adequate revenues (including retained earnings) — Assure adequate revenues — including retained earnings — to maintain financial stability; and to maintain high quality service standards; — Establish and maintain a fair and equitable schedule for rates and the classification system; — Not included. — Not included. 	<p>Similar provision but would require new rate regulation system to:</p> <ul style="list-style-type: none"> — Reduce the administrative burden and increase the transparency of the ratemaking process while affording reasonable opportunities for interested parties to participate in that process; — Identical; — Identical; — Allow the Postal Service pricing flexibility, including the ability to use pricing to promote intelligent mail and encourage increased mail volume during nonpeak periods; — Assure adequate revenues, including retained earnings, to maintain financial stability and meet the service standards established (see below); — Would include this provision as a factor not a goal of the rate system (see below at p. 8). — Enhance mail security and deter terrorism by promoting secure, sender-identified mail; — Allocate the total institutional costs of USPS equitably between market-dominant and competitive products.

H.R. 22	S. 662
<p>In crafting this system, PRC would be required to take into account:</p> <ul style="list-style-type: none"> — “The value of the mail service actually provided each class or type of mail service to both the sender and the recipient, including, but not limited to the collection, mode of transportation, and priority of delivery; — “The direct and indirect postal costs attributable to each class or type of mail service plus that portion of all other costs of the Postal Service reasonably assignable to such class or type; — “The effect of rate increases upon the general public, business mail users, and enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters; — “The available alternative means of sending and receiving letters and other mail matter at reasonable costs; — “The degree of preparation of mail for delivery into the postal system performed by the mailer and its effect upon reducing costs to the Postal Service; 	<p>In crafting this system, PRC would be required to take into account:</p> <p>Identical;</p> <ul style="list-style-type: none"> — “The requirement that each class of mail or type of mail service bear the direct and indirect postal costs attributable to each class or type of mail service through reliably identified causal relationships plus that portion of all other costs of the Postal Service reasonably assignable to such class or type;” — Identical; — Identical; — Identical;

H.R. 22		S. 662	
	<p>— “Simplicity of structure for the entire schedule and simple, identifiable relationships between the rates or fees charged the various classes of mail for postal services;</p> <p>— “The relative value to the people of the kinds of mail matter entered into the postal system and the desirability and justification for special classifications and services of mail;</p> <p>— “The importance of providing classifications with extremely high degrees of reliability and speed of delivery and of providing those that do not require high degrees of reliability and speed of delivery;</p> <p>— “The desirability of special classifications from the point of view of both the user and of the Postal Service;</p> <p>— “The educational, cultural, scientific, and informational value to the recipient of mail matter; and</p> <p>— “The policies of this title as well as such other factors as the Commission deems appropriate.”</p> <p>— Not included.</p> <p>— Not included.</p>		<p>— Identical;</p> <p>— Identical;</p> <p>— Identical;</p> <p>— Identical;</p> <p>— Identical;</p> <p>— Identical;</p> <p>— The need for the Postal Service to increase its efficiency and reduce its costs to help maintain high quality, affordable, universal postal service;</p> <p>— The establishment and maintenance of a fair and equitable schedule for rates and classification system;</p>

H.R. 22		S. 662	
	<p>— Not included.</p> <p>Would permit the rates and classes regulation system for market-dominant products to include one or more of the following characteristics:</p> <ul style="list-style-type: none"> — price caps, revenue targets, or other forms of incentive regulation; — cost-of-service regulation; — such other forms of regulation as the Commission considers appropriate to achieve.” <p>Not included.</p> <p>Not included.</p> <p>See Sec. 206 below on workshare discounts.</p>		<p>— The importance of pricing flexibility to encourage increased mail volume and operational efficiency. (This provision was added June 22, 2005.)</p> <p>Would require the new rate system to:</p> <ul style="list-style-type: none"> — “include an annual limitation on the percentage changes in rates ... that will be equal to the change in the Consumer Price Index for All Urban Consumers...” — Not included. — Not included. <p>Would require the ratemaking system to include “procedures whereby rates may be adjusted on an expedited basis due to unexpected and extraordinary circumstances.”</p> <p>Would allow USPS to “bank” unused pricing authority for any class or service. Thus, USPS could exceed CPI for a class or service by the amount that rate increases for that class or service in the previous year were less than the CPI. (This provision was added June 22, 2005.)</p> <p>Would define and establish rules on workshare discounts (identical to H.R. 22, Sec. 206).</p>

H.R. 22		S. 662	
Sec. 202. Provisions Relating to Competitive Products.	<p>Would amend 39 U.S.C. 3631 to list the following as competitive products:</p> <ul style="list-style-type: none"> — priority mail; — expedited mail; — mailgrams; — international mail; and — parcel post. <p>The Board of Governors (BOG) of USPS would establish rates and classes for these products. BOG would be required to publish these decisions in the <i>Federal Register</i> at least 30 days before the effective date of any new rates or classes.</p> <p>These rates would be in accordance with PRC regulations that “prohibit the subsidization of competitive products by market-dominant products ... [and] ensure that each competitive product covers its costs attributable ... and ensure that all competitive products collectively make a reasonable contribution to the institutional costs of the Postal Service.”</p> <p>Would differentiate between changes to rates and classes of “general applicability” in the nation as a whole or a substantial region thereof and changes not of general applicability. For the former, BOG would need to provide 30 days notice in the <i>Federal Register</i> before the effective date of such changes; for the latter, BOG would be required to file records of their decision with PRC at least 15 days before the effective date.</p>	Sec. 202. Provisions Related to Competitive Products.	<p>Similar provision but would define “competitive products” as:</p> <ul style="list-style-type: none"> — Identical; — Identical; — Identical; — bulk international mail; and — bulk parcel post. <p>Similar provision but would require “the written concurrence of a majority of all of the Governors then holding office” to establish rates and classes in the competitive category.</p> <p>Identical provision.</p> <p>Would require 30 days public notice of any changes to rates or classes and review by PRC to ascertain whether the proposed changes are in compliance with PRC regulations prohibiting cross-subsidization and requiring accurate cost attribution and appropriate institutional cost contribution.</p>

H.R. 22		S. 662	
	Not included.		Would also require PRC to conduct a review to determine whether the institutional costs contribution requirement for competitive products should be retained in its current form, modified, or eliminated. The first review would have to be five years after enactment of this bill, with periodic reviews coming every five years thereafter.
Sec. 203. Provisions Relating to Experimental and New Products.	<p>Would amend 39 U.S.C. 3641, which provides for temporary changes in postal rates and classes, to create a process for testing new postal products.</p> <p>In order to test a new product, USPS would be required to file a request with the Postal Regulatory Commission and publish a notice in the <i>Federal Register</i>. PRC would have the power to approve or disapprove of any new product. A product would qualify for testing only if it was a “significantly different product” and would not create a market disruption or unfair competitive advantage for the USPS. Applications for competitive products would be required to include costs and revenues attributable (PRC, though, would retain ultimate power to determine whether a new product should be classified as a market dominant or competitive product).</p>	Sec. 203. Provisions Relating to Experimental and New Products.	<p>Identical.</p> <p>Identical.</p>

H.R. 22		S. 662	
	<p>Would prohibit market tests for new products from exceeding 24 months; although upon written request of USPS, PRC could extend the trial period 12 months for the sake of determining the feasibility or desirability of a product being tested.</p> <p>Would permit a product to be tested only if the total revenue anticipated or received does not exceed \$10 million per year nationwide.</p> <p>Would empower PRC to “limit the amount of revenues the Postal Service may obtain from any particular geographic market as necessary to prevent market disruption.” PRC may waive the requirement that a tested product’s revenues not exceed \$10 million if:</p> <ul style="list-style-type: none"> (1) Total anticipated or actual revenues do not exceed \$50 million per year; (2) The PRC determines that the product is likely to benefit the public and meet an expected demand; the product is likely to contribute to the financial stability of the Postal Service; and the product is not likely to result in unfair competition. <p>Would permit PRC to move products not under the Postal Express Statutes (18 U.S.C. 1696) between the market-dominant and competitive products categories.</p>		<p>Nearly identical provision, except that S. 662 would require “[a]ny test that solely affects products currently classified as competitive, or which provides services ancillary to only competitive products, shall be presumed to be in the competitive product category without regard to whether a similar ancillary product exists for market-dominant products.”</p> <p>Nearly identical, though Senate bill does not include the term “nationwide.”</p> <p>S. 662 would not empower PRC to “limit the amount of revenues the Postal Service may obtain from any particular geographic market as necessary to prevent market disruption.”</p> <p>Identical.</p>

H.R. 22		S. 662	
Sec. 204. Reporting Requirements and Related Provisions.	<p>Would amend 39 U.S.C. 36 to require PRC to provide to Congress and the President an annual report “concerning the operations of the Commission under this title, including the extent to which regulations are achieving the objectives of the regulation of the prices of market-dominant products.</p> <p>Would also require an estimate of the costs incurred by the Postal Service in providing —</p> <ul style="list-style-type: none"> (1) postal services to areas of the nation where the Postal Service either would not provide services at all or would not provide such services in accordance with the requirements of this title if it were not required to do so; (2) free or reduced rates for postal services as required by this title; and (3) other public services or activities which, in the judgment of PRC, would not otherwise have been provided by USPS but for the requirements of law. <p>Would require USPS to prepare and submit to PRC a report including analysis of the costs, revenues, rates, service quality, timeliness, and reliability of products no later than 90 days after the end of each year. Would require the analysis in the report to conform to methodological specifications prescribed by PRC. Would require the USPS Inspector General to audit “the data collection systems and procedures utilized in collecting information and preparing [this] report” and submit the findings to PRC.</p>	Sec. 204. Reporting Requirements and Related Provisions.	<p>Identical.</p> <p>Not included here but Sec. 702 would require a universal service study.</p> <p>Similar provision except that S. 662 would not empower PRC to prescribe the methodology and S. 662 would have the USPS Inspector General audit the report itself — not the data collection systems and procedures employed to produce it.</p>

H.R. 22		S. 662	
	<p>This report must include information on market-dominant products for which workshare discounts were in effect during the time covered, including the per-item cost avoided by the Postal Service by virtue of such discount, the percentage of such per-item cost avoided that the per-item workshare discount represents, and the per-item contribution made to institutional costs.”</p> <p>H.R. 22 would define “workshare discount” as “presorting, barcoding, dropshipping, and other similar discounts, as further defined under regulations which the Postal Regulatory commission shall prescribe.”(See Sec. 206 below for further language on workshare discounts.)</p> <p>Would also empower PRC to require USPS to provide “summary data on the costs, revenues, and quality of service” on experimental competitive products.</p> <p>Would empower PRC to prescribe the form and content of all reports. Would require PRC to take the following into consideration in crafting its reporting prescriptions:</p> <ul style="list-style-type: none"> — providing the public with adequate information to assess the lawfulness of rates charged; — avoiding inflicting unnecessary or unwarranted administrative effort and expense on USPS; and — protecting the confidentiality of commercially sensitive information. 		<p>Identical.</p> <p>Identical.</p> <p>Identical provision but also would empower PRC to demand such data on negotiated service agreements.</p> <p>Identical except S. 662 would also require the information to be timely;</p> <p>Identical.</p> <p>Identical.</p> <p>Identical.</p>

H.R. 22	S. 662
<p>Would require the Postal Service to submit to PRC its comprehensive statement, performance plan, and program performance reports. Would permit USPS to petition PRC to be permitted to not disclose publicly any information that falls within the exceptions to the Freedom of Information Act as outlined at outlined in 5 U.S.C. 552(b).</p> <p>Would require PRC to take comments of the public and interested parties on the various reports, statements, and plans submitted each year and would require PRC to assess USPS compliance with laws and rules regarding rates and whether USPS performance goals and market-dominant product service standards were met. Would also empower PRC to require USPS to correct noncompliant behavior.</p> <p>Would provide for significant reforms in USPS financial reporting. Would require USPS to file with the PRC reports containing the same information as the quarterly Form 10-Q, annual Form 10-K, and periodic Form 8-K reports that publicly-traded corporations must file with the Securities and Exchange Commission. USPS reports would have to include information on the USPS's financial obligations to retirees. USPS would be required to obtain the opinion of an independent auditor on the information on its reporting on these obligations. Would also require USPS to comply with the financial reporting rules "prescribed by the Securities and Exchange Commission implementing section 404 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7262; P.L. 107-204) beginning with FY2007 and in each fiscal year thereafter."</p>	<p>Similar provisions but also would require USPS to submit its strategic plan.</p> <p>Similar provision.</p> <p>Similar provision, but would not require PRC to assess if market-dominant products met service standards. H.R. 22 would have USPS devise its own service standards for market-dominant products; S. 662 would have PRC design them (see Title III below.)</p> <p>Similar provision at Sec. 605 (see above).</p>

H.R. 22		S. 662	
Sec. 205. Complaints; Appellate Review and Enforcement.	<p>Would amend 39 U.S.C. 3662 and 3663 to permit “interested persons” to lodge a complaint with the PRC should they believe USPS is not operating in conformance with the requirements of Chapters 1, 4, 6 of 39 U.S.C. 36, regarding rates, classifications, and products. The PRC would have to begin proceedings on or dismiss such cases within 90 days of receipt thereof.</p> <p>If the complaint is ruled justified, the PRC may require USPS to remedy the effects of noncompliance. To this end, PRC is authorized to delay implementation of rates or classifications and fine USPS. Any person dissatisfied with a PRC decision (including USPS) may appeal adverse decisions to the United States Court of Appeals for the District of Columbia. Would allow PRC to suspend “implementation of rates or classifications ... for a limited period of time pending expedited proceedings under this section.”</p> <p>Would empower PRC to impose fines for deliberate noncompliance with the requirements of this title.</p>	Sec. 205. Complaints; Appellate Review and Enforcement.	<p>Identical except for clerical differences.</p> <p>Similar provision but omits provision providing PRC with rate suspension authority.</p> <p>Identical.</p>
Sec. 206. Workshare Discounts.	<p>Would allow PRC to permit USPS to enter workshare agreements that give greater discounts than costs avoided by the USPS under the following conditions:</p> <p>“(1) the discount is —</p> <p>“(A) associated with a new postal service, a change to an existing product or service, or a new work-share initiative related to an existing postal service;</p>		Similar provision at Sec. 201.

H.R. 22		S. 662	
	<p>“(B) necessary to induce mailer behavior that furthers the economically efficient operation of the Postal Service and the portion of the discount in excess of the cost that the Postal Service avoids as a result of the workshare activity will be phased out over a limited period of time;</p> <p>“(2) a reduction in the discount would —</p> <p> “(A) lead to a loss of volume in the affected category or subclass of mail and reduce the aggregate contribution to the institutional costs of the Postal Service from the category or subclass subject to the discount below what it otherwise would have been if the discount had not been reduced to costs avoided;</p> <p> “(B) result in a further increase in the rates paid by mailers not able to take advantage of the discount; or</p> <p> “(C) impede the efficient operation of the Postal Service;</p> <p>“(3) the amount of the discount above costs avoided—</p> <p> “(A) is necessary to mitigate rate shock; and</p> <p> “(B) will be phased out over time; or</p>		

H.R. 22		S. 662	
	<p>“(4) the discount is provided in connection with subclasses of mail consisting exclusively of mail matter of educational, cultural, scientific, or informational value.”</p> <p>Would require USPS to provide a report to PRC that explains reasons and analyses supporting USPS decision to enter into any negotiated service agreements.</p>		
Sec. 207. Clerical Amendment.	Would amend heading and strike analysis for 39 U.S.C. 36, which presently sets forth the Chapter 36 sections on “Postal Rate, Classes and Service,” which Title II proposes to amend.	Sec. 206. Clerical Amendment.	Similar provision.
Similar provision.		Title III — Modern Service Standards	
	Not included. See Sec. 204 above for the brief H.R. 22 proposal for USPS-crafted service standards.	Sec. 301. Establishment of Modern Service Standards.	<p>Would amend 39 U.S.C. 36 to require USPS and PRC to establish modern service standards for market-dominant products within 12 months of enactment of this section.</p> <p>Would require the modern standards to be designed to achieve the following objectives (provided they are consistent with USPS’s universal service obligation):</p>

H.R. 22		S. 662	
			<ul style="list-style-type: none"> — Enhance the value of the postal service to both senders and recipients; — Preserve regular and effective access to postal services in all communities, including those in rural areas or where post offices are not self-sustaining; — Reasonably assure Postal Service customers delivery reliability, speed, and frequency consistent with reasonable rates and best business practices; and — Provide a system of objective external performance measurements for each market-dominant product as a basis for measurement of Postal Service performance. <p>In establishing the standards to achieve the objectives, PRC is to take eight factors into consideration:</p> <ul style="list-style-type: none"> — the actual service levels that customers receive from USPS; — present customer satisfaction with USPS; — the needs of customers, including those with physical impairments; — mail volume and revenues projected for future years; — projected growth in addresses to be served; — present and future costs of serving customers; — the effect of technological innovation and demographics on the efficient, reliable operation of the postal delivery system; and — the policies of this title as well as other factors PRC deems appropriate.

H.R. 22		S. 662	
	Not included.	Sec 302. Postal Service Plan.	<p>Would require the Postal Service — in consultation with PRC — to create and submit to Congress a plan for achieving these standards. The plan is to is due within six months of establishment of the standards and must include:</p> <ul style="list-style-type: none"> — establish performance goals and describe any changes needed to the Postal Service’s network to meet the goals; — a facilities plan that provides a description of the long-term USPS vision to rationalize its facilities and workforce and plans for achieving this vision, a discussion of the impacts of such changes, USPS needs for flexibility to make workforce changes, and anticipated costs and benefits. <p>Would require USPS to provide an annual report that details how postal decisions have affected or will affect rationalization plans and estimates of how other factors (e.g., automation initiatives, worksharing) may affect rationalization plans. Also would require the report to include information on USPS plans for and actions to reduce its facilities network, statutory or regulatory impediments to network reduction, plans to expand alternative retail outlets, and plans for reemployment assistance and early retirement benefits for displaced postal employees.</p>

H.R. 22		S. 662	
			Would require USPS to submit the report the Inspector General of the U.S. Postal Service, who would prepare a report detailing USPS compliance with the law and the new service standards. Would require the Inspector General to submit both reports to Congress.
Title III — Provisions Relating to Fair Competition		Title IV — Provisions Relating to Fair Competition	
Sec. 301. Postal Service Competitive Products Fund.	<p>Would amend 39 U.S.C. 20 to establish a Postal Service Competitive Products Fund, “which shall be available to the Postal Service ... for the payment of —</p> <p>(1) costs attributable to competitive products; and</p> <p>(2) all other costs incurred by the Postal Service, to the extent allocable to the competitive products.” [This includes any competitive products judgments against USPS.]</p> <p>Deposits to the Competitive Product Fund would include:</p> <p>(1) revenues from competitive products;</p> <p>(2) amounts received from obligations issued by the Postal Service;</p> <p>(3) interest and dividends earned on investments of the Competitive Products Fund; and</p> <p>(4) any other receipts of the Postal Service (including from the sale of assets), to the extent allocable to competitive products.</p>	Sec. 401. Postal Service Competitive Products Fund.	Identical.

H.R. 22		S. 662	
	<p>Should the funds be in excess of current needs, USPS would be permitted to invest those funds in obligations of, or guaranteed by, the U.S. Government or in accordance with the advice of the Secretary of the Treasury.</p> <p>USPS may deposit excess funds in a Federal Reserve bank or a depository for public funds with the approval of the Secretary of the Treasury.</p> <p>USPS would be authorized to “borrow money and to issue and sell such obligations as it determines necessary to provide for competitive products and deposit such amounts in the Competitive Products Fund.”</p> <p>Would compute the total assets of the Competitive Products Fund as the greater of the assets related to the provision of competitive products or the percentage of total USPS revenues and receipts from competitive products multiplied by USPS total assets.</p> <p>Would permit the federal government to purchase USPS issued debt and would provide USPS clear discretion over the denomination, time of issuance, maturity dates, prices, and rates of USPS debt issued.</p>		<p>Similar provision.</p> <p>Identical.</p> <p>Similar provision.</p> <p>Would compute the total assets of the Competitive Products Fund by multiplying the quotient resulting from the total revenues of the Competitive Products Fund divided by the total USPS revenue and total USPS assets.</p> <p>Identical.</p>

H.R. 22		S. 662	
	<p>Obligations would not be exempt from taxation by any state or locality nor would they be obligations of the Government of the United States.</p> <p>Would require USPS to provide an annual report to the Secretary of the Treasury on the operation and condition of the Competitive Products Fund.</p> <p>Would have the Secretary of the Treasury, in consultation with USPS, an independent accounting firm, and such other advisers as the Secretary deems appropriate, develop recommendations regarding:</p> <p>“(1) the accounting practices and principles that should be followed by USPS with the objectives of (A) identifying and valuing USPS assets and liabilities associated with providing competitive products — including the capital and operating costs incurred in providing such competitive products; and (B) preventing the subsidization of such products by market-dominant products; and</p> <p>(2) the substantive and procedural rules that should be followed in determining the assumed Federal income tax on competitive products income of the Postal Service for any year.”</p> <p>These proposals would then be submitted to PRC, which would accept comments by USPS, the public, and interested parties, and then issue final accounting rules for USPS.</p>		<p>Identical.</p> <p>Identical.</p> <p>Identical.</p>

H.R. 22		S. 662	
Sec. 302. Assumed Federal Income Tax on Competitive Products Income.	<p>Would define “assumed Federal income tax” to mean the net income tax that would be imposed by chapter 1 of the Internal Revenue Code of 1986 on the Postal Service’s assumed taxable income from competitive products for the year.”</p> <p>Would require USPS to compute its assumed federal income tax each year and transfer this amount to the Postal Service Fund.</p>	Sec. 402. Assumed Federal Income Tax on Competitive Products Income.	Identical.
Sec. 303. Unfair Competition Prohibited.	<p>Would amend 39 U.S.C. 4 by adding a provision that prohibits USPS from establishing “any rule or regulation” or “term of competition” unless USPS demonstrates that the rule, regulation, or term “does not create an unfair competitive advantage for itself or any federally funded entity.”</p> <p>Would prohibit USPS from “compel[ling] the disclosure, transfer, or licensing of intellectual property to any third party” or “obtain[ing] information from a person that provides (or seeks to provide) any product, and then offer any product or service that uses such information, without the consent of the person providing the information...”</p> <p>Would require PRC to prescribe regulations to carry out this section.</p>	Sec. 403. Unfair Competition Prohibited.	<p>Identical.</p> <p>S. 662 is worded nearly identically except that it refers to “any postal service” instead of “any product or service.”</p> <p>Identical.</p>

H.R. 22		S. 662	
Sec. 304. Suits By and Against the Postal Service.	<p>Would amend 39 U.S.C. 409 so that USPS, with regard to activities involved in providing competitive products, would be considered a person — as used in the provisions of law involved — and would not be immune under the doctrine of sovereign immunity. Persons could bring federal suits against USPS for violations of the Trademark Act of 1946 (15 U.S.C. 1051) and Section 5 of the Federal Trade Commission Act (on unfair or deceptive acts and practices). Would deny USPS legal representation by the Department of Justice in these instances.</p> <p>Also would require USPS, when building new buildings or altering existent ones to comply with “one of the nationally recognized model building codes” and to do so only after “considering all requirements of zoning laws, land use laws, and applicable environmental laws of a State or subdivision of a State...”</p>	Sec. 404. Suits By and Against the Postal Service.	<p>Similar provision except that S. 662 also would declare that to the “extent that the Postal Service engages in conduct with respect to the provision of competitive products, it shall be considered a person for the purposes of the Federal bankruptcy laws.”</p> <p>Similar provision but would also require USPS should to “the extent practicable, model building codes should meet the voluntary consensus criteria established for codes and standards as required in the National Technology Transfer and Advancement Act of 1995 as defined in Office of Management and Budget Circular A1190. For purposes of life safety, the Postal Service shall continue to comply with the most current edition of the Life Safety Code of the National Fire Protection Association (NFPA 101).”</p>

H.R. 22		S. 662	
Sec. 305. International Postal Arrangements.	<p>Would declare United States policy to be to:</p> <ul style="list-style-type: none"> — “promote and encourage communications between peoples by efficient operation of international postal services and other international delivery services for cultural, social, and economic purposes; — “promote and encourage unrestricted and undistorted competition in the provision of international postal services and other international delivery services...; — “to promote and encourage a clear distinction between governmental and operational responsibilities with respect to the provision of international postal services and other international delivery services by the Government of the United States and by intergovernmental organizations of which the United States is a member; and — “to participate in multilateral and bilateral agreements with other countries to accomplish these objectives.” 	Sec. 405. International Postal Arrangements.	<p>Identical except as below noted.</p> <p>— Would not include “and other international delivery services by the Government of the United States and by intergovernmental organizations of which the United States is a member.”</p>

H.R. 22		S. 662	
	<p>Would amend 39 U.S.C. 407 to give the Secretary of State responsibility for the “formulation, coordination, and oversight of foreign policy related to international postal services and other international delivery services, and shall have the power to conclude treaties, conventions and amendments related to international postal services and other international delivery services...”. Would prohibit the Secretary of State from concluding a treaty, convention, or agreement that would, with respect to any competitive product, give an undue or unreasonable preference to USPS or any private provider of postal or delivery services.</p> <p>Before concluding any treaty, convention, or amendment establishing international postage rates or classifications, would require the Secretary of State to request a PRC decision on whether such rate or classification is consistent with the standards and criteria established by the Commission under section 3622.</p> <p>Would require the Secretary of State to ensure that each treaty, convention, or amendment ... is consistent with PRC decisions “except if, or to the extent, the Secretary determines, by written order, that considerations of foreign policy or national security require modification of the Commission’s decision.”</p> <p>Would define a private company as a company that is “substantially owned or controlled by persons who are citizens of the United States.”</p>		<p>Identical except that S. 662 does not empower the Secretary of State with oversight of operations of “other international delivery services.”</p> <p>Similar provision, but would require Secretary of State to request from PRC “its views.”</p> <p>Similar but would not permit exceptions and modifications due to considerations of foreign policy or national security by Secretary of State.</p> <p>Not included.</p>

H.R. 22		S. 662	
	With respect to competitive products, would require the “Bureau of Customs and Border Protection of the Department of Homeland Security and other appropriate Federal agencies shall apply the customs laws of the United States and all other laws relating to the importation or exportation of such shipments in the same manner to both shipments by the Postal Service and similar shipments by private companies.”		Similar provision but refers to “the Customs Service” instead of the “Bureau of Customs and Border Protection of the Department of Homeland Security.”
Sec. 306. Redesignation.	39 U.S.C. 36 would be amended to include “ Subchapter VI — General.”		Not included.
Title IV — General Provisions		Title V — General Provisions	
Sec. 401. Qualification Requirements for Governors.	<p>Would amend 39 U.S.C. 202(a) to require that at least four of the Governors of USPS be selected solely on the basis of their demonstrated ability in managing organizations or corporations of “substantial size” (defined as possessing 50,000 or more employees). Governors may “not be representatives of specific interests using the Postal Service” and may be removed only for cause.</p> <p>Further amends 39 U.S.C. 202(a) to require the President to consult with the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate regarding nominees for open Governor seats.</p>	Sec. 501. Qualification Requirements for Governors.	<p>Similar provision but would not stipulate that “at least four of the Governors” be selected based on their experience managing entities of a “substantial size.” Would not define “substantial size.” Would also require that “[e]xperience in the fields of law and accounting shall be considered in making appointments of Governors.”</p> <p>Identical.</p>

H.R. 22		S. 662	
	<p>Would require that the passage of this act not “affect the appointment or tenure of any person serving as a Governor of the United States Postal Service under an appointment made before the date of enactment of this Act.”</p> <p>Not included.</p> <p>Would require that an early vacancy on the Board of Governors be filled by a person nominated with the concurrence of the major postal labor unions. This person would serve a three-year term instead of a nine-year term.</p>		<p>Identical.</p> <p>Would reduce terms of governors from nine to five years and procedures for replacement of sitting governors with nine-year terms in the event of death or removal for cause.</p> <p>Not included.</p>
Sec. 402. Obligations.	<p>Would amend 39 U.S.C. 2005 to limit USPS new obligations for capital improvements and defraying operating expenses to \$3 billion per annum.</p> <p>Forbids pledging assets related to the provision of competitive products.</p>		<p>Not included.</p> <p>Identical.</p>
Sec. 403. Private Carriage of Letters.	<p>Would amend 39 U.S.C. 601 to permit the private carriage of letters if:</p> <ul style="list-style-type: none"> — the amount paid for private carriage is equal to at least 6 times the rate then currently charged for the 1st ounce of a single-piece first class letter; — the letter weighs at least 12 ½ ounces; or 	Sec. 503. Private Carriage of Letters.	Similar provision.

H.R. 22		S. 662	
	<p>— such carriage is within the scope of services described by regulations of the United States Postal Service (as in effect on July 1, 2004) that purport to permit private carriage by suspension of this section (as then in effect).</p> <p>PRC would be empowered to craft any regulations necessary to carry out this section.</p>		
Sec. 404. Rulemaking Authority.	Would modify USPS’s rulemaking authority under 39 U.S.C. 401 to include the power “to adopt, amend, and repeal such rules and regulations, not inconsistent with this title, as may be necessary in the execution of its functions under this title and such other functions as may be assigned to the Postal Service under any provisions of law outside this title.”	Sec. 504. Rulemaking Authority.	Identical.
Sec. 405. Noninterference With Collective Bargaining Agreements.	<p>Would declare that present employee and labor organization privileges, rights, and benefits under 39 U.S.C. 12 are not restricted or expanded, except as provided in Sec. 407 below.</p> <p>Would continue free mailing privileges afforded to postal unions.</p> <p>Identical provision at H.R. 22 Sec. 407 (see below).</p>	Sec. 505. Noninterference With Collective Bargaining Agreements.	<p>Similar declaration made although S. 662 would amend 39 U.S.C. 1207 regarding labor disputes.</p> <p>Identical provision.</p> <p>Would change the collective bargaining arbitration process (details below at H.R. 22 Sec. 407).</p>

H.R. 22		S. 662	
Sec. 406. Bonus and Compensation Authority.	<p>Would amend 39 U.S.C. 36 to permit USPS to create one or more programs to provide employee bonuses or other rewards.</p> <p>Would limit annual executive compensation with bonuses to no more than the “total annual compensation” of the Vice President of the United States (\$208,100 in 2005).</p> <p>Would require any bonus program to be approved by the USPS Board of Governors, which also would be empowered to revoke or suspend the Postal Service’s bonus-granting authority under any program if should find that the bonus program is fails to based on relative performances among employees.</p> <p>Would require USPS to report any bonuses or rewards given in its annual comprehensive statement, including the names of persons receiving a bonus, the amount of these bonuses, and the amount by which these bonuses exceeded employees’ permissible compensation.</p>	Sec. 506. Bonus Authority.	<p>Identical.</p> <p>Identical.</p> <p>Identical.</p> <p>Not included.</p>
Sec. 407. Mediation in Collective-Bargaining Disputes.	<p>Would amend 39 U.S.C. 1207(b) to require that in the event of a labor dispute the Director of the Federal Mediation and Conciliation Service “shall within 10 days appoint a mediator of nationwide reputation and professional standing ... who is also a member of the National Academy of Arbitrators” instead of a factfinding panel.</p>		Identical provision found at Sec. 505.

H.R. 22		S. 662	
	<p>Would amend 39 U.S.C. 1207(c) to reduce from 90 to 60 days the period after the expiration of a bargaining agreement that may pass before the parties would be required to go through arbitration.</p> <p>Would amend 39 U.S.C. 1207(d) to require the appointment of a mediator instead of a fact-finding panel when a bargaining unit is without an agreement with USPS.</p> <p>Thus, the labor dispute resolution process would include the following steps:</p> <ol style="list-style-type: none"> 1. A bargaining unit with an agreement with the USPS that desires modification or termination of an agreement must serve notice to that effect to the other party no less than 90 days before the expiration of the agreement; 2. Within 45 days of providing notice, the party serving notice must notify the Director of the Federal Mediation and Conciliation Service (FMCS); 3. If parties fail to resolve their differences (or provide for a process for resolving their differences) before the expiration of the agreement, then the Director of FMCS must appoint a mediator within 10 days. Both parties must work with the mediator and negotiate in good faith; 		

H.R. 22		S. 662	
	<p>4. If no resolution has been reached 60 days after appointment of the mediator, then a three-person arbitration board must be appointed. Each disputant chooses one member and the two members chosen choose the third member. The arbitration board is to give both sides a full and fair hearing and render a decision within 45 days of its appointment. If either party fails to select a member or the two parties disagree on the third member, then a list of nine arbitrators will be provided and the parties must agree to select from it. It is unclear what would happen if the parties failed to do this. Under current law, the Director would have the power to select members.</p> <p>A similar procedure is created for bargaining units whose recognized bargaining representative does not have an agreement with the USPS.</p>		

H.R. 22		S. 662	
Title V — Enhanced Regulatory Commission		Title VI — Enhanced Regulatory Commission	
Sec. 501. Reorganization and Modification of Certain Provisions Relating to the Postal Regulatory Commission.	<p>Would amend 39 U.S.C. to include a chapter 5 which replaces the Postal Rate Commission with the new Postal Regulatory Commission (PRC). PRC would have five commissioners, appointed by the President with the advice and consent of the Senate. Commissioners are to be chosen solely on the basis of their “technical qualifications, professional standing, and demonstrated expertise in economics, accounting, law, or public administration, and may be removed by the President only for cause.” Not more than three members may be adherents of the same political party; commissioners are to serve six year terms.</p> <p>Identical provision at H.R. 22 Sec. 505.</p>	Sec. 601. Reorganization and Modification of Certain Provisions Relating to the Postal Regulatory Commission.	<p>Similar provisions but also would require that “[n]o Commissioner shall be financially interested in any enterprise in the private sector of the economy engaged in the delivery of mail matter.”</p> <p>S. 662 also would require PRC to “designate an officer of the Postal Regulatory Commission in all public proceedings who shall represent the interests of the general public.”</p>
Sec. 502. Authority for Postal Regulatory Commission to Issue Subpoenas.	<p>Would empower “the Chairman of the Commission, any Commissioner designated by the Chairman, and any administrative law judge appointed by the Commission” to issue subpoenas (provided a majority of PRC concurs). Any person failing to obey a subpoena may be punished for contempt of court by the district court of the U.S. in the district in which the person subpoenaed resides or is served. In cases involving documents exempt from public disclosure, USPS may respond to the subpoena with written notification that explains the reasons for keeping such documents from public view. PRC would</p>	Sec. 602. Authority for Postal Regulatory Commission to Issue Subpoenas.	Similar provision.

H.R. 22		S. 662	
	be empowered to render final decision over the public disclosure or nondisclosure of such documents.		
Sec. 503. Appropriations for the Postal Regulatory Commission.	Would amend 39 U.S.C. 504(d) to authorize appropriations for PRC out of the Postal Service Fund. Each fiscal year, PRC would be required to submit a budget of expenses to Congress in order to receive an appropriation. Would have amendments in this section “apply with respect to fiscal years beginning on or after October 1, 2005.”	Sec. 603. Appropriations for the Postal Regulatory Commission.	Identical except that Sec. 603 reads “[t]he amendments made by this section shall apply with respect to fiscal years beginning on or after October 1, 2002.”
Sec. 504. Redesignation of the Postal Rate Commission.	Would replace the words “Postal Rate Commission” with “Postal Regulatory Commission” in Titles 39, 5, and 44 of U.S.C.	Sec. 604. Redesignation of the Postal Rate Commission.	Identical.
Sec. 505. Officer of the Postal Regulatory Commission Representing the General Public.	Would require PRC to designate “an officer of the Postal Regulatory Commission in all public proceedings (such as developing rules, regulations, and procedures) who shall represent the interests of the general public.”		Identical provision at Sec. 601 above.

H.R. 22		S. 662	
Title VI — Inspectors General		Not included	
Sec. 601. Inspector General of the Postal Regulatory Commission.	Would amend the Inspector General Act of 1978 (5 U.S.C. Appendix) and 39 U.S.C. 504 to establish the Office of Inspector General (OIG) of the Postal Regulatory Commission. The first PRC Inspector General is to be appointed no later than 180 days from enactment of this act. H.R. 22 would not enumerate additional duties of the PRC IG beyond those carried in present law.		Not included.
Sec. 602. Inspector General of the United States Postal Service to be Appointed by the President.	Would amend the Inspector General Act of 1978 (5 U.S.C. Appendix) to require presidential appointment of the Inspector General of the U.S. Postal Service. Would empower the IG to have oversight responsibility for all activities of the Postal Inspection service. Appropriations for the Office of the Inspector General would be available beginning October 1, 2005.		Not included. Sec. 1003 would require GAO to “review the functions, responsibilities, and areas of possible duplication of the United States Postal Inspection Service and the Office of the Inspector General of the United States Postal Service and submit a report on the review to the Committee on Homeland Security and Governmental Affairs of the Senate.” Also would require the report to include legislative recommendations.
		Sec. 605. Financial Transparency.	Equivalent provision at H.R. 22, Sec.204.
Title VII — Evaluations		Title VII — Evaluations	
Sec. 701. Universal Postal Service Study.	Would require the Postal Service to submit to Congress, the President, and PRC, a written report on universal postal service (within 12 months of enactment of this act). The report must include a history of universal service and how it has evolved, USPS recommendations	Sec. 702. Universal Postal Service Study and the Postal Monopoly.	Similar provision but PRC would be charged with preparing the report and would also need to provide an assessment of the postal monopoly (on the delivery of mail and access to mailboxes) and provide any proposed changes to either universal service or the

H.R. 22		S. 662	
	<p>on universal service, along with descriptions of the scope and standards of universal service under present law; any geographic areas, populations, communities, organizations, or other groups not covered by universal service at present; and the scope and standards of universal service likely to be required in the future.</p> <p>Would further require PRC to prepare an analysis of the USPS report on universal service, including estimates of the costs of providing universal service under present and prior law, and send it to the President within 12 months.</p> <p>In preparing these reports, both USPS and PRC are obliged to consult with governmental and nongovernmental stakeholders.</p>		<p>monopoly. PRC would have 24 months after enactment to submit this report.</p>
<p>Sec. 702. Assessments of Ratemaking, Classification, and Other Provisions.</p>	<p>Would require PRC to provide, at least every 5 years, a report to the President and Congress concerning the operation of this act's amendments to the law and any recommendations to improve the efficiency of the postal laws. USPS, after considering this report, would be required to submit its comments, which would be attached to this report. The report would be required to include specific information on "cost-coverage relating to competitive products collectively" and the operations of the Competitive Products Fund and the assumed federal income tax thereon.</p>	<p>Sec. 701. Assessments of Ratemaking, Classification, and Other Provisions.</p>	<p>Similar provision with differences noted below.</p> <p>Would not include the requirement that the report provide information on cost coverage on competitive products, the Competitive Products Fund, or the assumed federal income tax.</p>

H.R. 22		S. 662	
Sec. 703. Study on Equal Application of the Laws to Competitive Product	<p>Within one year of the enactment of this act, the Federal Trade Commission (FTC) would be required to prepare and submit to the President, Congress, and PRC a report that “identifying Federal and State laws that apply differently to the United States Postal Service with respect to the competitive category of mail ... and private companies providing similar products.”</p> <p>The study should include appropriate recommendations for bringing “such legal differences” to an end.</p> <p>In preparing the report, the FTC shall consult with governmental and nongovernmental stakeholders.</p> <p>PRC is to take into account the recommendations of the study and “subsequent events that affect the continuing validity of the estimate of the net economic effect ... in promulgating or revising the regulations” required by 39 U.S.C. 3633.</p>		<p>Similar provisions but uses the phrase “such legal discrimination.”</p> <p>Identical.</p> <p>Would not require PRC to take into account “subsequent events that affect the continuing validity of the estimate of the net economic effect.”</p>
Sec. 704. Greater Diversity in Postal Service Executive and Administrative Schedule Management Positions.	<p>Would require the BOG to “study and, within 1 year after the date of the enactment of this act, submit to the President and Congress a report concerning the extent to which women and minorities are represented in supervisory and management positions within the United States Postal Service.” Would require data included in the report to be “presented in the aggregate and by pay level.”</p>		Not included.

H.R. 22		S. 662	
	Also would require USPS to “take such measures as may be necessary to ensure that, for purposes of conducting performance appraisals of supervisory or managerial employees, appropriate consideration shall be given to meeting affirmative action goals, achieving equal employment opportunity requirements, and implementation of plans designed to achieve greater diversity in the workforce.”		
Sec. 705. Plan for Assisting Displaced Workers.	Would require USPS within one year to prepare and submit to Congress and the Board of Governors a report and a plan on assisting workers displaced as a result of automation or privatization of postal functions.		Included at Sec. 302 above.
Sec. 706. Contracts with Women, Minorities, and Small Businesses.	Would require BOG to “study and, within 1 year after the date of the enactment of this Act, submit to the President and Congress a report concerning the number and value of contracts and subcontracts the Postal Service has entered into with women, minorities, and small businesses.”		Not included.
Sec. 707. Rates for Periodicals.	USPS and PRC would be required to collaborate on a study concerning “the quality, accuracy, and completeness of the information used by the Postal Service in determining the direct and indirect postal costs attributable to periodicals ... and any opportunities that might exist for improving” efficiencies in the collection, handling, transportation, or delivery of periodicals by the Postal Service — including any pricing incentives for mailers that might be appropriate. Would require copies of the study to be submitted to the President and Congress.		Not included.

H.R. 22		S. 662	
Sec. 708. Assessment of Certain Rate Deficiencies.	Would direct the OIG of USPS, within 12 months of enactment of this act, to submit to the President, Congress, and USPS a study concerning the administration of 39 U.S.C. 3626(k), often referred to as the “cooperative mailing provision.” This section of the law, and 39 U.S.C. 3626 generally, permit certain types of mail materials sent by nonprofit groups and organizations to qualify for reduced postal rates. The study is to address “the adequacy and fairness of the process by which assessments under 39 U.S.C. 3626(k) are determined and appealable” and to consider whether PRC or some other body ought to be assigned a role in this administrative process. The study should further consider “whether a statute of limitations should be established for the commencement of proceedings by the Postal Service thereunder.” For further language on nonprofit mailing rates, see Sec.808 below.		Not included.
Sec. 709. Network Optimization.	Would require USPS to submit to PRC, Congress, and the Board of Governors a written report on the postal processing and distribution network. The report should provide account of efforts taken to improve mail processing, transportation, and distribution network and actions taken to identify excess capacity. The report should also identify any statutory or regulatory obstacles to facility realignment or consolidation. USPS would be required to treat optimization as a Government Performance and Results Act (31 U.S.C. 1115 note) performance goal.		Not included. Sec. 302 above, which describes “modern service standards,” would require USPS to develop a plan that includes a description of “the long-term vision of the Postal Service for rationalizing its infrastructure and workforce.”

H.R. 22		S. 662	
Sec. 710. Assessment of Future Business Model of the Postal Service.	Would empower Comptroller General to appoint an independent research organization to prepare a report assessing the best business model for promoting ‘an efficient, reliable, innovative, and viable Postal Service.’ Would require the report to consider the costs, benefits, and feasible options associated with maintaining USPS in its current form and transforming it into a corporation wholly or partially owned by the government. Would require the report to be submitted to Congress and the President within 27 months of enactment of this act.		Not included.
Sec. 711. Study on Certain Proposed Amendments.	Would require GAO to prepare a report on the costs and benefits of increasing USPS’s discretion to permit foreign air carriers to transport mail.		Not included.
	Not included.	Sec. 704. Report on Postal Workplace Safety and Workplace-Related Injuries	<p>Would require the IG of USPS to submit a report to Congress and the Postal Service — no later than six months after enactment of this bill — that would:</p> <ul style="list-style-type: none"> — discuss any injury reduction goals established by the Postal Service; — describe the actions that the Postal Service has taken to improve workplace safety and reduce workplace-related injuries; — assess how successful the Postal Service has been in meeting its injury reduction goal and, — identify failure to achieve these goals and opportunities for making further progress in meeting these goals.

H.R. 22		S. 662	
			<p>Would require USPS to submit a report to Congress — not later than 6 months after receiving the USPS IG report — that details how USPS plans to improve workplace safety and reduce workplace-related injuries nationwide, including goals and metrics. These plans should be “developed in consultation with the Inspector General and employee representatives, including representatives of each postal labor union and management association...”</p>
	Not included.	Sec. 705. Study on Recycled Paper.	<p>Would require the (GAO) to study and submit to the Congress, the Board of Governors of the Postal Service, and to the Postal Regulatory Commission a report concerning —</p> <ul style="list-style-type: none"> — the economic and environmental efficacy of establishing rate incentives for mailers linked to the use of recycled paper; — a description of the accomplishments of the Postal Service in each of the preceding five years involving recycling activities...; and — additional opportunities that may be available for the United States Postal Service to engage in recycling initiatives and the projected costs and revenues of undertaking such opportunities. <p>Would also require the report to include recommendations for any administrative or legislative actions that may be appropriate.</p>

H.R. 22		S. 662	
Title VIII — Miscellaneous, Technical and Conforming Amendments			Somewhat similar title at Title X (see below)
Sec. 801. Employment of Postal Police Officers.	Would amend 18 U.S.C. 3061 to permit USPS to “employ police officers for duty in connection with the protection of property owned or occupied by the Postal Service or under the charge and control of the Postal Service.”		Similar provision at Sec. 1001 but would amend 39 U.S.C. 404 to permit USPS to “employ guards for all buildings and areas owned or occupied by the Postal Service or under the charge and control of the Postal Service, and may give such guards, with respect to such property, any of the powers of special policemen” provided under 40 U.S.C. 1315.
Sec. 802. Date of Postmark to be Treated as the Date of Appeal in Connection with the Closing or Consolidation of Post Offices.	Would amend 39 U.S.C. 404(b) so that any appeals to the closure of post offices mailed or otherwise delivered would be considered received based upon the postmark date or, if delivered by other means, by paperwork indicating the date contracted for delivery. This would be effective three months after enactment of this act.		Not included.
Sec. 803. Provisions Relating to Benefits Under Chapter 81 of title 5, United States Code, for Officers and Employees of the Former Post Office Department.	Would amend 39 U.S.C. 1001 note so that USPS would have the same “authorities and responsibilities” with respect to any individual receiving benefits under the former Post Office Department as it has to any officer or employee of USPS receiving such benefits.		Not included.

H.R. 22		S. 662	
Sec. 804. Obsolete Provisions.	<p>Would repeal 39 U.S.C. 52 on the transportation of mail by a surface carrier.</p> <p>Would amend 39 U.S.C. 5005(b)(1), 5402(d), and 5605 to eliminate restrictions on lengths of contracts.</p>		Identical provision at Sec. 1002, which was added June 22, 2005.
Sec. 805. Investments.	Would amend 39 U.S.C. 2003 to prohibit USPS from investing monies from the Postal Fund in any obligations or securities of a commercial entity.		Not included.
Sec. 806. Reduced Rates.	Would require USPS to permit a publication with a total paid circulation of less than 5000 to be treated, for the purpose of postal rates, as in-county mail even when issues of said publication are mailed to locations outside of the county in which it is produced.		Identical provision at Sec. 1002, which was added June 22, 2005.
Sec. 807. Hazardous Matter.	Would amend 36 U.S.C. 3001 to empower the Secretary of Transportation to define hazardous materials and to enumerate the prohibitions against the mailing of hazardous materials and provide criminal and civil penalties for violation of these prohibitions.		Not included.
Sec. 808. Provisions Relating to Cooperative Mailings.	Requires USPS to examine section E670.5.3 of the Domestic Mail Manual to determine whether it contains adequate safeguards against the abuse of rates for nonprofit mail and the deception of customers.		Not included.

H.R. 22		S. 662	
Sec. 809. Technical and Conforming Amendments.	<p>Would amend 39 U.S.C. 3681 so that USPS may “establish size and weight limitations for mail matter in the market-dominant category of mail consistent with regulations the Postal Regulatory Commission may prescribe under section 3622. The Postal Service may establish size and weight limitations for mail matter in the competitive category of mail consistent with its authority under section 3632.”</p> <p>In addition to conforming amendments regarding revenue forgone and appropriations and reporting requirements, the act would amend 39 U.S.C. 404 to allow the Board of Governors to establish “reasonable and equitable” classes of mail and rates of postage. “Postal rates and fees shall be reasonable and equitable and sufficient to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.” Also would require USPS to maintain one or more classes of mail for transmission of letters that would be sealed against inspection.</p>		Not included.

H.R. 22		S. 662	
Title IX — Postal Pension Funding Reform Amendments		Title VIII — Postal Service Retirement and Health Benefit Funding	
Sec. 901. Civil Service Retirement System.	<p>Would amend 5 U.S.C. 83 to alter USPS's contributions to the Civil Service Retirement System (CSRS). Would shift responsibility for pension payments related to employee military service to the Department of the Treasury.</p>		<p>Similar provision at Sec. 802 except for below noted differences.</p>
	<p>Would require an annual determination of USPS pension payment surplus or supplemental liability by the Office of Personnel Management. Any USPS surplus would be transferred into the Postal Service Retiree Health Benefits Fund, which would pre-fund retiree health benefits. Would require the creation of amortization schedule should a supplemental liability be found. Would permit the cancellation of any existent supplemental liability amortization schedule "to the extent of any amounts first coming due after the close of the fiscal year to which such determination relates" if OPM should find no CSRS liability.</p> <p>Would require that any determination or redetermination made by OPM under this section shall, upon request of the United States Postal Service, be subject to review by PRC, which shall submit a report containing the results of its review to USPS, OPM, and Congress. OPM then would reconsider its determination or redetermination in light of such report, and make any appropriate adjustments. OPM would then be required to submit a report containing the results of its reconsideration to PRC, USPS, and Congress.</p>		<p>Similar provision added June 22, 2005 except that review would be performed by an outside actuary, one with membership in the American Academy of Actuaries.</p>

H.R. 22		S. 662	
Sec. 902. Health Insurance.	<p>Would establish the Postal Service Retiree Health Benefits Fund, which would be administered by the Office of Personnel Management (OPM).</p> <p>Would establish the Postal Service Retiree Health Benefits Fund, which would be administered by the Office of Personnel Management (OPM).</p> <p>Beginning September 30, 2006, USPS would be required to pay into the Retiree Health Benefits Fund each year:</p> <p>(A) the portion of the net present value for current and future USPS annuitants that is attributable to the current year's service of Postal Service employees;</p> <p>(B) interest on the net present value for that fiscal year at the interest rate used to compute that net present value.</p>		<p>Similar provision at Sec. 803 except for differences noted here.</p> <p>Identical.</p> <p>Beginning September 30, 2006, USPS would be required to pay into the Retiree Health Benefits Fund each year:</p> <p>(A) the net present value of the future payments that is attributable to the service of Postal Service employees during the most recently ended fiscal year; and</p> <p>(B) an annual installment computed as the difference between the net present value of the excess of future payments for current and future Postal Service annuitants as of the fiscal year ending on September 30 of that year; and the value of the assets of the Postal Service Retiree Health Benefits Fund as of the fiscal year ending on September 30 of that year and the net present value of the future payments that is attributable to the service of Postal Service employees during the most recently ended fiscal year. This amount is to be amortized to create a series of annual installments that provide for the liquidation of the liability by September 30, 2045, or within 15 years, whichever is later.</p>

H.R. 22		S. 662	
	<p>Would allow the USPS contribution to the Postal Service Retiree Health Benefits Fund in 2006 to be reduced by any USPS contributions attributable to FY2006.</p> <p>Would require that any computation or regulation by OPM “under this subsection shall, upon request of the Postal Service, be subject to review by the Postal Regulatory Commission. The Commission shall submit a report containing the results of any such review to the Postal Service, the Office of Personnel Management, and the Congress Upon receiving the report of the Postal Regulatory Commission, the Office of Personnel Management shall reconsider its computation or other determination in light of such report, and shall make any appropriate adjustments. The Office shall submit a report containing the results of its reconsideration to the Commission, the Postal Service, and the Congress.”</p>		<p>Similar provision.</p> <p>Similar provision added June 22, 2005 except that review would be performed by an outside actuary, one with membership in the American Academy of Actuaries.</p>
Sec. 903. Repealed.	Would repeal Sec. 3 of P.L. 108-18, which required that savings resulting from the Postal Civil Service Retirement System Funding Reform Act of 2003 be used to reduce the debt of the Postal Service (in 2003 and 2004) and placed in escrow thereafter.		Similar provision at Sec. 804.
Sec. 904. Ensuring Appropriate Use of Escrow and Military Savings.	Would require OPM to calculate the per annum “total savings” each year (2006-2015). If the amount USPS has paid into the Postal Service Retiree Health Benefits Fund that year is equal to or greater than two-thirds of the total savings for that year, USPS need take no further action; if the payments are less than two-thirds, USPS must pay into the Postal Service Retiree Health Benefits Fund an		Not included.

H.R. 22		S. 662	
	amount equal to the difference. The Postal Service could avoid paying the difference only in the instance of a fiscal year underpayment being negated by an aggregate overpayment over previous fiscal years (beginning 2006). OPM would be required to report its calculations of total savings to USPS, PRC, and Congress.		
Sec. 905. Effective Dates.	Makes the changes of this title effective October 1, 2005 and requires changes to government contributions to the civil service retirement system begin on the first day of the first pay period of October 1, 2005.		Identical provision at Sec. 805.
Not included		Title IX — Compensation for Work Injuries	
	Not included.	Sec. 901. Temporary Disability; Continuation of Pay.	Senate bill would also amend 5 U.S.C. 8117 so that a USPS employee would not be entitled to compensation or continuation of pay for the first three days of temporary disability. During this time, a USPS employee would be permitted to use annual leave, sick leave, or leave without pay.
	Not included.	Sec. 902. Disability Retirement for Postal Employees.	In order to reduce Postal Service expenses, this provision would encourage Postal Service employees of retirement age who are injured on the job to retire rather than to draw disability compensation. To this end, it would amend 5 U.S.C. 8105 and 8106 to reduce compensation for work injuries for a postal worker whose injuries occur after enactment of S. 662. If enacted —

CRS-51

H.R. 22		S. 662	
			<p>An employee suffering total disability from a workplace injury would be entitled to compensation of 50 percent (currently 66 2/3 percent) of his monthly pay on the later date of:</p> <p>(1) the date on which the injured worker reaches retirement; or</p> <p>(2) one year after the employee begins receiving compensation.</p> <p>An employee suffering partial disability would be entitled to 50 percent (currently 66 2/3 percent) of the difference between his monthly pay and his monthly wage earning capacity after the beginning of his partial disability on the later date of:</p> <p>(1) the date on which the injured employee reaches retirement age; or</p> <p>(2) one year after the employee begins receiving compensation.</p>
Not included		Title X — Miscellaneous	
	See Sec. 801 above.	Sec. 1001. Employment of Postal Police Officers.	Similar provision in H.R. 22 Sec. 801.
	See Sec. 804 above.	Sec. 1002. Obsolete Provisions.	Similar provision at Sec. 804.

H.R. 22		S. 662	
	See Sec. 808 above.	Sec. 1003. Reduced Rates.	Identical to H.R. 22, Sec. 808.
	Not included.	Sec. 1004. Sense of Congress Regarding Postal Service Purchasing Reform.	Would declare that “the Postal Service should — “(1) ensure the fair and consistent treatment of suppliers and contractors in its current purchasing policies...; and “(2) implement commercial best practices in Postal Service purchasing policies to achieve greater efficiency and cost savings as recommended in July 2003 by the President’s Commission on the United States Postal Service.”